

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

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U.S PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CARY LEE BATES,
PAUL REUBEN DAY and JOHN MATTHEW SANTOSUOSO

Appeal No. 2003-0706
Application No. 09/356,241

ON BRIEF

Before KRASS, RUGGIERO, and GROSS, Administrative Patent Judges.
RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the Examiner's rejection of claims 14-19, 21, 22, 24-27, 48, 50, 51, and 53-57. Claims 28-37, 39-47, 58, and 59 have been canceled. The Examiner indicates (Answer, page 2) that claims 1-13, 38, and 60-66 are allowed, and that claims 20, 23, 49, and 52 contain allowable

subject matter but are objected to as being dependent on a rejected base claim.

The claimed invention relates to database searching in which each of a plurality of records in a database is associated with a user feedback parameter which is utilized in ranking search results. The user feedback parameter for a given record can be selectively updated in response to the detection of multiple accesses by a user to the record and/or the detection that the record is the most recently accessed record in the search result set. Further, a feedback parameter for a given record may be associated with a plurality of weights that are in turn associated with particular keywords. When the relevancy of a particular record is determined in the ranking of records in a search result set, only those weights that are associated with keywords that match the search request are used in the ranking determination.

Claims 14 and 27 are illustrative of the invention and read as follows:

14. A method of accessing a database, the method comprising:

(a) in response to a search request, generating a result set including identifications of a subset of a plurality of records in a database that match the search request;

(b) ordering the identifications of the records in the result set using a user feedback parameter associated with each record in the result set; and

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(c) for each of the plurality of records in the database, selectively updating the user feedback parameter associated therewith in response to detecting that the record is the most recently accessed record in the result set.

27. A method of accessing a database, the method comprising:

(a) in response to a search request, generating a result set including identifications of a subset of a plurality of records in a database that match the search request;

(b) ordering the identification of the records in the result set using a user feedback parameter associated with each record in the result set, each user feedback parameter including a plurality of weights, each weight associated with a keyword, wherein ordering the identifications of the records includes using only those weights associated with keywords that match the search request; and

(c) for each of the plurality of records in the database, selectively updating at least one weight for the user feedback parameter associated therewith in response to user interaction with the record.

The Examiner relies on the following prior art:

Rose et al. (Rose)	5,724,567	Mar. 03, 1998
Shoham	5,855,015	Dec. 29, 1998

Claims 14-19, 21, 22, 24-27, 48, 50, 51, and 53-57, all of the rejected appealed claims, stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Shoham in view of Rose.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Brief (entitled Supplemental Appeal Brief) filed September 19, 2002 (Paper No. 12) and the Answer mailed November 4, 2002 (Paper No. 13) for the respective details.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the Examiner and the evidence of obviousness relied upon by the Examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the Brief along with the Examiner's rationale in support of the rejection and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in claims 14-16, 21, 22, and 24-26. We reach the opposite conclusion with respect to claims 17-19, 27, 48, 50, 51, and 53-57. Accordingly, we affirm-in-part.

Appellants nominally indicate (Brief, page 6) that each of the appealed claims 14-19, 21, 22, 24-27, 48, 50, 51, and 53-57 stands or falls separately. We will consider the appealed claims separately only to the extent separate arguments for patentability are presented. Any dependent claim not separately argued will stand or fall with its base claim. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d

989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Brief have not been considered and are deemed to be waived [see 37 CFR § 1.192(a)].

With respect to independent claims 14, 24, and 25, Appellants assert that the Examiner has not established a prima facie case of obviousness since all of the claimed limitations are not taught or suggested by the applied prior art references. These claims are directed to the feature in which a user feedback parameter associated with a record is updated in response to a detection that the record is "the most recently accessed record" in the search result set.

After reviewing the disclosure of the applied Shoham and Rose references in light of the arguments of record, however, we are in general agreement with the Examiner's position as clarified and amplified at pages 18 and 19 of the Answer. In discussing the disclosure of Rose, the Examiner directs attention to the description of the updating of a user profile with feedback information indicative of the user's interest in a particular retrieved record. As disclosed by Rose (column 5, lines 56-59), each time a message is retrieved, feedback information indicative

of interest (as provided by the selection of the "thumbs-up" or "thumbs-down" icons) is provided by a user so that the user profile is continually updated. Further, it is apparent from our reading of Rose that this updating feature is performed effectively in response to the detection of the retrieved record being "the most recently accessed record" since, as also disclosed by Rose (column 5, lines 46-49), the message display window cannot be closed, i.e., a new message cannot be retrieved, until one of the interest options is selected.

We do not find Appellants' arguments (Brief, pages 10 and 11) on this issue to be persuasive since, contrary to Appellants' assertions, it is apparent from the discussion in the "Response to Argument" portion of the Answer at pages 18 and 19 that the Examiner is not merely relying on the "time-stamping" information associated with each record in Rose. We would also point out that, although the Examiner has expanded the explanation of the stated rejection in the Answer, Appellants have chosen not to file a Reply Brief, effectively choosing to rely on their arguments as stated in the Brief.

In view of the above discussion, since it is our opinion that the Examiner's prima facie case of obviousness has not been overcome by any convincing arguments from Appellants, the

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Examiner's 35 U.S.C. § 103(a) rejection of independent claims 14, 24, and 25, as well as claims 15, 16, 21, 22, and 26 not separately argued by Appellants, is sustained.

Turning to a consideration of the Examiner's 35 U.S.C. § 103(a) rejection of claims 27, 48, 50, 51, and 53-57, we note that, while we found Appellants' arguments to be unpersuasive with respect to the Examiner's rejection of claims 14-16, 21, 22, and 24-26 discussed supra, we reach the opposite conclusion with respect to claims 27, 48, 50, 51, and 53-57. Each of the independent claims 27, 55, and 56 in this rejected group of claims is directed to the feature of a weighted feedback parameter which is associated with keywords, and in which the ordering of records uses only those weights associated with keywords that match a search request.

We agree with Appellants (Brief, pages 12 and 13) that any keyword associated weighting that may appear in Shoham or Rose is not associated with a user feedback as required by each of independent claims 27, 55, and 56. To the contrary, as pointed out by Appellants, the keyword weighting in Shoham and Rose relies on parameters such as the placement and frequency of occurrence of words in a document, not on any feedback indication provided by a user indicative of relative importance to the user of a particular

keyword. Accordingly, for the reasons discussed above, since the Examiner has not established a prima facie case of obviousness, the 35 U.S.C. § 103(a) rejection of independent claims 27, 55, and 56, as well as claims 48, 50, 51, 53, 54, and 57 dependent thereon, is not sustained. We also do not sustain the Examiner's 35 U.S.C. § 103(a) rejection of dependent claims 17 and 18 which contain the keyword weighting feature not taught or suggested by Shoham or Rose as discussed supra.

Lastly, we also do not sustain the Examiner's 35 U.S.C. § 103(a) rejection of dependent claim 19 directed to the feature of identifying a subset of records in a database which matches a unique combination of keywords. This feature is recited in combination with the accessing of a search request data structure including a plurality of records, each record including a search request parameter identifying such unique combination of keywords. We agree with Appellants that the portion of Shoham cited by the Examiner (column 5, lines 62-67 and column 6, lines 13-20) merely provides a generalized discussion of the search and retrieval of hyperlinked information. We find nothing in this portion of Shoham, or elsewhere in the Shoham and Rose references, that would teach or suggest the particular features set forth in claim 19.

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In summary, with respect to the Examiner's 35 U.S.C. § 103(a) rejection of appealed claims 14-19, 21, 22, 24-27, 48, 50, 51, and 53-57, we have sustained the rejection of claims 14-16 and 21, 22, and 24-26, but have not sustained the rejection of claims 17-19, 27, 48, 50, 51, and 53-57.¹ Therefore, the Examiner's decision rejecting claims 14-19, 21, 22, 24-27, 48, 50, 51, and 53-57 is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

ERROL A. KRASS Administrative Patent Judge)	
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<i>Joseph F. Ruggiero</i> JOSEPH F. RUGGIERO Administrative Patent Judge)	BOARD OF PATENT APPEALS AND INTERFERENCES
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<i>Anita Pelman Gross</i> ANITA PELLMAN GROSS Administrative Patent Judge)	
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¹ Claim 54 is, apparently inadvertently, dependent on canceled claim 33. We leave the correction of this matter to Appellants and the Examiner in any further prosecution on this application.

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